



General Assembly

January Session, 2005

***Raised Bill No. 6750***

LCO No. 3679

\*03679\_\_\_\_\_JUD\*

Referred to Committee on Judiciary

Introduced by:  
(JUD)

***AN ACT CONCERNING THE PROBATE COURT ADMINISTRATOR.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 45a-77 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2005*):

3 (a) The Probate Court Administrator may attend to any matters  
4 [which] that the Probate Court Administrator deems necessary for the  
5 efficient operation of courts of probate and for the expeditious  
6 dispatch and proper conduct of the business of [those] such courts. The  
7 Probate Court Administrator may make recommendations to the  
8 General Assembly for legislation for the improvement of the  
9 administration of the courts of probate.

10 (b) [(1)] The Probate Court Administrator may issue regulations [,  
11 provided such regulations are approved in accordance with this  
12 subsection. Such regulations] that shall be binding on all courts of  
13 probate. [and] Such regulations shall concern [the] auditing,  
14 accounting, statistical, billing, recording, filing, administrative and  
15 other court procedures, [. (2) The Probate Court Administrator may  
16 adopt regulations, in accordance with chapter 54, provided such

17 regulations are approved in accordance with this subsection. Such  
18 regulations shall be binding on all courts of probate and shall concern]  
19 the availability of judges, court facilities, court personnel, salaries and  
20 records, and hours of court operation. [and telephone service. (3)]  
21 Either the Probate Court Administrator or the executive committee of  
22 the Connecticut Probate Assembly may propose such regulations. Any  
23 regulation proposed by the Probate Court Administrator shall be  
24 submitted to the executive committee of the Connecticut Probate  
25 Assembly for approval. Any regulation proposed by the executive  
26 committee of the Connecticut Probate Assembly shall be submitted to  
27 the Probate Court Administrator for approval. If either the Probate  
28 Court Administrator or the executive committee of the Connecticut  
29 Probate Assembly fails to approve a proposed regulation, such  
30 proposed regulation may be submitted to a panel of three Superior  
31 Court judges appointed by the Chief Justice of the Supreme Court. The  
32 panel of judges, after consideration of the positions of the Probate  
33 Court Administrator and the executive committee of the Connecticut  
34 Probate Assembly, shall either approve the proposed regulation or  
35 reject the proposed regulation.

36 (c) The Probate Court Administrator shall regularly review the  
37 auditing, accounting, statistical, billing, recording, filing,  
38 administrative and other procedures of the several courts of probate.

39 (d) The Probate Court Administrator shall, personally, or by an  
40 authorized designee of the Probate Court Administrator who has been  
41 admitted to the practice of law in this state for at least five years, or by  
42 another person acting under the supervision of such designee, visit  
43 each court of probate at least once during each two-year period to  
44 examine the records and files of such court in the presence of the judge  
45 of the court or the judge's authorized designee. The Probate Court  
46 Administrator shall make [whatever] any additional inquiries [are  
47 deemed] that the Probate Court Administrator deems appropriate [ ] to  
48 ascertain whether the business of the court, including the charging of  
49 costs and payments to the State Treasurer, has been conducted in

50 accordance with law, rules of the courts of probate and the canons of  
51 judicial ethics, and to obtain information concerning the business of  
52 the courts of probate which is necessary for the [administrator] Probate  
53 Court Administrator to perform properly the duties of the office.

54 (e) If the Probate Court Administrator determines, in accordance  
55 with the provisions of this section, that the business of a court of  
56 probate has not been conducted in accordance with law, the rules of  
57 the courts of probate or the canons of judicial ethics, the Probate Court  
58 Administrator, in his or her discretion, may reassign any case pending  
59 before such court to another judge of probate by means of a citation in  
60 the manner provided in section 45a-120, or cite another judge of  
61 probate to assist the judge of such court in conducting the business of  
62 such court, or both. The Probate Court Administrator shall give  
63 written notice of such citation to the judge of such court.

64 (f) Any judge of probate who is the subject of an action of the  
65 Probate Court Administrator under subsection (e) of this section may  
66 request a hearing to review such action. Such request shall be in  
67 writing and shall be given to the Probate Court Administrator within  
68 five business days following the action under subsection (e) of this  
69 section. A hearing shall be held, within ten business days following the  
70 receipt of such written request by the Probate Court Administrator,  
71 before a panel of three judges of probate. Such panel shall consist of  
72 the president-judge of the Connecticut Probate Assembly or, in the  
73 absence or disability of the president-judge, the first vice-president-  
74 judge of the Connecticut Probate Assembly, and two members of the  
75 executive committee of the Connecticut Probate Assembly designated  
76 by the president-judge or first vice-president-judge. The president-  
77 judge or first vice-president-judge shall preside at the hearing. After  
78 the hearing, a majority of the judges on the panel may affirm, reverse  
79 or modify the action of the Probate Court Administrator under  
80 subsection (e) of this section.

81 (g) Upon the recommendation of the Probate Court Administrator,

82 the Chief Justice of the Supreme Court may appoint administrative  
 83 regional probate judges. Each administrative regional probate judge  
 84 shall be a probate judge during the term of such appointment. The  
 85 administrative regional probate judges shall perform such duties as the  
 86 Probate Court Administrator deems necessary to assist him or her in  
 87 carrying out his or her responsibilities under this section. Subject to the  
 88 approval of the Chief Court Administrator, the Probate Court  
 89 Administrator shall fix the compensation of the administrative  
 90 regional probate judges and such compensation shall be paid from the  
 91 Probate Court Administration Fund established under section 45a-82.  
 92 Such compensation, together with the administrative regional probate  
 93 judge's compensation as a probate judge of the district to which he or  
 94 she was elected, shall not exceed the compensation provided under  
 95 subsection (k) of section 45a-92, as amended by this act. The  
 96 administrative regional probate judges shall have such benefits as may  
 97 inure to them as probate judges and shall receive no additional  
 98 benefits, except for compensation provided under this section.

99       Sec. 2. Subsection (l) of section 45a-82 of the general statutes is  
 100 repealed and the following is substituted in lieu thereof (*Effective*  
 101 *October 1, 2005*):

102       (l) The Probate Court Administrator may issue regulations pursuant  
 103 to [subdivision (1) of subsection (b) of] section 45a-77, as amended by  
 104 this act, in order to carry out the intent of subsections (j) and (k) of this  
 105 section.

106       Sec. 3. Section 45a-92 of the general statutes is repealed and the  
 107 following is substituted in lieu thereof (*Effective October 1, 2005*):

108       (a) Each person who is a judge of probate at any time during any  
 109 calendar year shall file with the Probate Court Administrator, on or  
 110 before March first of the succeeding year, a statement signed under  
 111 penalty of false statement showing the actual gross receipts and  
 112 itemized costs of his or her office and the net income for each such  
 113 calendar year. If such person ceases to hold office, he or she shall also

114 file with the Probate Court Administrator, on or before March first of  
115 the second and third years next following, a statement signed under  
116 penalty of false statement showing his or her net income from his or  
117 her former office for the first and second calendar years next following  
118 the calendar year in which he or she ceased to hold office. At the time  
119 of filing, each such person shall pay to the State Treasurer as  
120 [hereinafter] provided in this section the sum required by this section,  
121 less sums previously paid to the State Treasurer on account. Payment  
122 shall be credited by the State Treasurer to the fund established [by]  
123 under section 45a-82, as amended by this act.

124 (b) The personal representative of each person who holds the office  
125 of judge of probate, at any time during any calendar year, and dies  
126 while in office, or within twenty-four months after ceasing to hold  
127 office, shall file with the Probate Court Administrator, on or before  
128 March first next following such death, a statement signed under  
129 penalty of false statement showing the actual gross receipts and  
130 itemized costs of the decedent's office for the preceding calendar year  
131 and the decedent's net income from [that] such office for such calendar  
132 year. The personal representative shall file with the Probate Court  
133 Administrator, on or before March first of the second year following  
134 [said] such death, a statement signed under penalty of false statement  
135 showing the net income to the decedent's estate from such office for  
136 the preceding calendar year.

137 (c) Each judge of probate or personal representative, except a judge  
138 of probate who is the Probate Court Administrator, shall at the time of  
139 filing such returns pay to the State Treasurer to be credited to the fund  
140 established [by] under section 45a-82, as amended by this act, a  
141 percentage of the annual net income from such office based on the  
142 following table in which the percentage appearing in the left column  
143 shall first be multiplied by the minimum annual compensation of a  
144 high volume court as provided in subsection (k) of this section, as in  
145 effect on the first day of July of the calendar year for which an  
146 assessment is due pursuant to this section, the product of which shall

147 then be multiplied by the applicable percentage appearing in the right  
148 column:

T1	First 20% of the compensation assessment rate	
T2	of a high volume court	\$1 nominal
T3	Next 6.67%	5%
T4	Next 6.66%	10%
T5	Next 6.67%	15%
T6	Next 6.67%	25%
T7	Next 6.66%	35%
T8	Next 13.34%	50%
T9	Next 33.33%	75%
T10	Next 33.67%	80%
T11	Next 66.67%	85%
T12	Next 133.33%	95%
T13		
T14	Excess over 333.67%, up to the maximum amount computed at 97.5%	
T15	by the Probate Court Administrator	
T16		
T17	All over the maximum amount computed at 100% by the Probate	
T18	Court Administrator.	

149 As used [herein] in this subsection, "maximum amount" [shall mean]  
150 means the amount of annual net income from such office which, when  
151 applying the percentage payments set forth above, shall result in the  
152 judge of probate retaining as net compensation, after the payment of  
153 the above amounts, no more than the product resulting from the  
154 multiplication of seventy-two dollars by the annual weighted-  
155 workload of the court, as defined by regulations [to be adopted] issued  
156 by the Probate Court Administrator pursuant to [subdivision (3) of  
157 subsection (b) of] section 45a-77, as amended by this act, but not to  
158 exceed the compensation of a high volume court as set forth in  
159 subsection (k) of this section, provided [this] such limitation shall not  
160 apply to [those] the courts described in subsection (k) of this section.

161 Such payment shall be deemed to be a necessary expense of such office  
162 but shall not be deductible from the gross income for the purpose of  
163 determining net income of such office under this section.  
164 Notwithstanding the provisions of this subsection, the annual  
165 minimum compensation of a judge of probate shall be no less than the  
166 product resulting from the multiplication of fifteen dollars by the  
167 annual weighted-workload of the court, as defined by regulations [to  
168 be adopted] issued by the Probate Court Administrator pursuant to  
169 [subdivision (3) of subsection (b) of] section 45a-77, as amended by this  
170 act, or no less than the judge's average compensation for the three-year  
171 period from January 1, 1996, to December 31, 1998, but, in no event  
172 shall [that] such minimum compensation exceed that provided  
173 pursuant to subsection (k) of this section.

174 (d) (1) Any judge of probate who is the Probate Court Administrator  
175 shall pay to the State Treasurer, to be credited to [said] the fund  
176 established under section 45a-82, as amended by this act, one hundred  
177 per cent of the annual net income from his office during the period of  
178 time he serves as Probate Court Administrator. (2) For the purposes of  
179 [this] such assessment, fees received after but earned before his  
180 appointment as Probate Court Administrator shall be subject to the  
181 assessment set forth in the table in subsection (c) of this section. Fees  
182 received after such judge of probate ceases to be the Probate Court  
183 Administrator but earned during his term as Probate Court  
184 Administrator shall be paid in full to the State Treasurer after the  
185 deduction of the expenses of his office. (3) The books and records of  
186 any judge of probate acting as Probate Court Administrator shall be  
187 audited by the Auditors of Public Accounts at the beginning of his  
188 term as Probate Court Administrator and thereafter at least annually  
189 during [his term as Probate Court Administrator] such term and upon  
190 completion of his term as Probate Court Administrator or as judge of  
191 probate whichever occurs first. (4) A judge of probate who is the  
192 Probate Court Administrator shall make no expenditure in his court  
193 for salaries, equipment [,] or any other expenditure exceeding the sum  
194 of one hundred dollars in the aggregate, annually, without first having

195 obtained the approval of the Chief Court Administrator.

196 (e) (1) On or before January thirty-first of each year, each person  
197 required to make payment under this section shall estimate such  
198 annual net income and shall advise the Probate Court Administrator  
199 thereof, upon such forms and pursuant to such regulations as [said  
200 administrator shall promulgate] the Probate Court Administrator shall  
201 issue pursuant to section 45a-77, as amended by this act. (2) Each  
202 person who takes office as a judge of probate after February first of any  
203 calendar year, as the result of death, retirement, resignation or removal  
204 of the immediately previous incumbent of [that] such office, shall file  
205 his estimate of annual net income with the Probate Court  
206 Administrator and shall make the necessary payment to the State  
207 Treasurer in accordance therewith not later than sixty days after taking  
208 office.

209 (f) If, based upon such estimate, the amount payable shall be less  
210 than one hundred dollars, the payment thereof shall be made in one  
211 payment on or before December thirty-first of the applicable year.  
212 Otherwise, the amount payable shall be made in four substantially  
213 equal installments payable on or before the last day of March, June,  
214 September and December of the applicable year, except that in the case  
215 of an estimate filed pursuant to subdivision (2) of subsection (e) of this  
216 section, the amount payable under such estimate shall be made in  
217 substantially equal installments on such installment payment dates  
218 next following the timely filing of such estimate in such year. The  
219 estimated payment may be amended and changed at any time during  
220 the year in which it is payable by increasing or decreasing the amount.  
221 The amount of such increase or decrease shall be paid for or adjusted  
222 in the installment or payment due at the time the estimated assessment  
223 is next payable after such amendment. The Probate Court  
224 Administrator may [adopt] issue regulations pursuant to [subdivision  
225 (1) of subsection (b) of] section 45a-77, as amended by this act, to carry  
226 out the intent of this subsection.



227 (g) Upon the completion of each calendar year, and in any event on  
 228 or before the first day of April of the succeeding calendar year, each  
 229 person required to make payment under this section shall make a  
 230 report signed under penalty of false statement to the Probate Court  
 231 Administrator, upon forms prescribed by and subject to regulations  
 232 [promulgated by the administrator] issued by the Probate Court  
 233 Administrator, of the following: (1) The gross income received by  
 234 virtue of such person's office; (2) actual expenses incurred in  
 235 connection with [the] such office; (3) the net income of such office prior  
 236 to the payment of the assessment installments [hereinbefore] as  
 237 provided in this section; (4) the amount paid during the preceding  
 238 calendar year to the State Treasurer on account of the foregoing  
 239 estimate; and (5) the amount of the difference, if any, between the  
 240 amount so paid and the amount actually due. [This] Such report shall  
 241 be open to public inspection.

242 (h) If the amount already paid was less than the amount due, such  
 243 person shall, on or before March first of the succeeding calendar year,  
 244 pay to the State Treasurer the entire deficiency. If the amount already  
 245 paid was more than the amount due, such person shall either, at his  
 246 election and pursuant to regulations [promulgated] adopted by the  
 247 State Treasurer, be entitled to a refund of such excess payment to be  
 248 paid from the fund [provided by] established under section 45a-82, as  
 249 amended by this act, or a credit in the amount of the overpayment to  
 250 be charged against the future obligations of such person to said fund.

251 (i) (1) If any estimated quarterly payments required to be paid  
 252 pursuant to subsection (f) of this section is less than one-fourth of  
 253 seventy per cent of the total assessment due for that year or less than  
 254 one-fourth of ninety-five per cent of the assessment paid for the prior  
 255 year, such person shall be obligated to pay to [such] the fund  
 256 established under section 45a-82, as amended by this act, a penalty of  
 257 ten per cent of the amount of the deficiency, except that the Probate  
 258 Court Administrator may waive such penalty for cause in accordance  
 259 with regulations [adopted] issued pursuant to [subdivision (1) of

260 subsection (b) of] section 45a-77, as amended by this act. Any such  
 261 penalty shall become payable upon demand by the Probate Court  
 262 Administrator, and be due within thirty days after such demand, in  
 263 accordance with regulations [promulgated] issued by the Probate  
 264 Court Administrator, and shall be subject to interest under subdivision  
 265 (2) of this subsection in the event of default in such payment. (2) Any  
 266 payments required under subsection (f) or (h) of this section which are  
 267 not paid at the applicable times prescribed in said subsections, and any  
 268 penalty payment required under subdivision (1) of this subsection  
 269 which is not timely paid, shall incur simple interest at the rate  
 270 applicable under section 12-376 for delinquent payment of succession  
 271 and transfer taxes where no extension has been granted, to be payable  
 272 to the State Treasurer and to be added to the fund established under  
 273 section 45a-82, as amended by this act. Any alleged delinquency of a  
 274 judge of probate in making payments as required under this section  
 275 shall be referred by the State Treasurer to the Attorney General for  
 276 such action as the Attorney General deems necessary.

277 (j) (1) [As used in] For the purposes of this subsection and  
 278 subsections (c) to (i), inclusive, of this section, [for any calendar year,  
 279 the term] "actual expenses incurred in connection therewith", for any  
 280 calendar year, may include as an allowable deduction the amount of  
 281 any net operating loss for a prior calendar year as provided in this  
 282 section. (2) [The term] For the purposes of this subsection, "net  
 283 operating loss" means the excess of itemized costs and expenses of  
 284 office allowed by this section over the gross income. A net operating  
 285 loss may be deducted in the calendar year following the year in which  
 286 the net operating loss occurred, but (A) if the net income of such  
 287 subsequent year is not sufficient to pay all of such net operating loss,  
 288 then the balance of such net operating loss may be deducted in the  
 289 second calendar year following such net operating loss, [;] and (B) if  
 290 the net income of such second calendar year is not sufficient to pay all  
 291 of the remaining net operating loss, then the balance of such net  
 292 operating loss may be deducted in the third calendar year following  
 293 such net operating loss. In no event shall any such net operating loss or

294 part thereof be deductible for any report beyond the third calendar  
295 year in which it occurred.

296 (k) Notwithstanding the provisions of subsection (c) of this section  
297 concerning percentage payments, a judge of probate who is the judge  
298 in a court of probate designated as a high volume court shall be  
299 permitted to retain as net compensation, before the payment of any  
300 amounts due under sections 45a-34 to 45a-54, inclusive, and 45a-75, the  
301 sum which shall be the greater of (1) the net compensation resulting  
302 from the application of the percentages in subsection (c) of this section  
303 or (2) compensation earned after payment of actual expenses of the  
304 office not to exceed seventy-five per cent of the amount of the salary of  
305 a Superior Court judge, as determined in accordance with subsection  
306 (a) of section 51-47, as determined on July first of the calendar year for  
307 which the assessments are being paid pursuant to this section. If a  
308 judge of probate of a high volume court leaves office during a calendar  
309 year, or if a judge of probate of a high volume court assumes office and  
310 serves during a portion of the calendar year, the minimum net  
311 compensation provided in this section shall be prorated in accordance  
312 with the number of days served during the calendar year as the  
313 numerator, and three hundred and sixty-five as the denominator,  
314 provided if the business of the court in a calendar year does not  
315 produce sufficient income with which to pay the minimum net  
316 compensation, then payment for [that] such year shall not be extended  
317 to subsequent calendar years. For the purposes of this subsection,  
318 "high volume court" [shall mean] means a court of probate which  
319 serves a district having an estimated population of seventy thousand  
320 or more persons as reported in the State Register and Manual for the  
321 calendar year immediately preceding (A) the year for which the judge  
322 was elected, (B) the year in which such judge was elected, or (C) any  
323 year of the term of office of such judge. The amount of assessment  
324 payable to the State Treasurer under this section shall be reduced by  
325 the amount necessary to provide to the judge the minimum  
326 compensation to which such judge is entitled under this section, and  
327 the estimates of annual net income required in subsections (e) and (f)

328 of this section may be reduced accordingly. Minimum compensation  
329 as provided [herein] in this section shall only be payable if all ordinary  
330 and necessary expenses of the court are paid.

331 Sec. 4. Subsection (g) of section 5-259 of the general statutes is  
332 repealed and the following is substituted in lieu thereof (*Effective*  
333 *October 1, 2005*):

334 (g) Notwithstanding the provisions of subsection (a) of this section,  
335 the Probate Court Administration Fund established [in accordance  
336 with] under section 45a-82, as amended by this act, shall pay for each  
337 probate judge and Probate Court employee not more than one  
338 hundred per cent of the portion of the premium charged for his or her  
339 individual coverage and not more than fifty per cent of any additional  
340 cost for his or her form of coverage. The remainder of the premium for  
341 such coverage shall be paid by the probate judge or Probate Court  
342 employee to the State Treasurer. Payment shall be credited by the State  
343 Treasurer to the fund established [by] under section 45a-82, as  
344 amended by this act. The total premiums payable shall be remitted by  
345 the Probate Court Administrator directly to the insurance company or  
346 companies or nonprofit organization or organizations providing the  
347 coverage. The Probate Court Administrator shall [establish] issue  
348 regulations governing group hospitalization and medical and surgical  
349 insurance in accordance with [subdivision (1) of subsection (b) of]  
350 section 45a-77, as amended by this act.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2005</i>	45a-77
Sec. 2	<i>October 1, 2005</i>	45a-82(l)
Sec. 3	<i>October 1, 2005</i>	45a-92
Sec. 4	<i>October 1, 2005</i>	5-259(g)

***Statement of Purpose:***

To clarify and define the powers of the Probate Court Administrator and to make corresponding technical changes.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*